

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
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Rob VAN DER GIESSEN et al.) Examiner: Melenie Lee McCORMICK
)
Application No.: 10/533,135) Group Art Unit: 1655
)
Filed: April 29, 2005) **Confirmation No. 2204**
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For: PHARMACEUTICAL COMPOSITIONS AND USES COMPRISING MUCUNA
PRURIENS SEED POWDER AND EXTRACTS THEREOF IN THE TREATMENT
OF NEUROLOGICAL DISEASES

VERIFIED STATEMENT OF FACTS IN SUPPORT OF PETITION
FOR RETROACTIVE GRANT OF FOREIGN FILING LICENSE

ATTENTION: LICENSING AND REVIEW

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

I, DR. JOACHIM WACHENFELD, hereby declare that:

1. I am a resident of München, Germany, and was so at all times relevant to this Statement of Facts.
2. I am a German and European patent attorney and a partner in the German law firm of Vossius & Partner of München, Germany.
3. I participated in the preparation and filing of the European and International counterparts to the above-captioned patent application.
4. On October 30, 2002, attorneys at Vossius & Partner filed a European patent application. The European Patent Office (EPO) assigned Serial No. 02024475.2 to that European patent application. European Patent Application No. 02024475.2 named Phytrix AG as the applicant.

5. On October 2, 2003, attorneys at Vossius & Partner filed an international patent application in the EPO, corresponding to and claiming priority from European Patent Application Serial No. 02024475.2. The EPO assigned Serial No. PCT/EP2003/010975 to this international patent application. International Patent Application No. PCT/EP2003/010975 named Phytrix AG as the applicant.

6. On April 29, 2005, i.e., one day prior to the thirty (30) month deadline to enter the national stage in the United States, James B. Arpin, a patent attorney in the U.S. law firm of Baker Botts L.L.P., filed the above-captioned patent application in the U.S. Patent and Trademark Office (PTO). The U.S. application is a Section 371 national stage application, claiming priority from the above-referenced European and international patent applications described in Paragraphs 4 and 5 above. The PTO assigned Application No. 10/533,135 to this U.S. patent application (i.e., the above-captioned U.S. patent application).

7. C. Warren Olanow is a named inventor in European Patent Application No. 02024475.2, International Patent Application No. PCT/EP2003/010975, and U.S. Patent Application No. 10/533,135.

8. Mr. Olanow is an U.S. citizen, and Mr. Olanow made his inventive contributions to the disclosed subject matter and the claimed invention of European Patent Application Serial No. 02024475.2, while in the United States.

9. The PTO had not issued a foreign filing license covering the subject matter disclosed in European Patent Application No. 02024475.2 or in International Patent Application No. PCT/EP2003/010975, prior to the filing of U.S. Patent Application No. 10/533,135.

10. On November 26, 1999, Mr. Olanow entered into a consulting contract with CMI AG and thereafter performed research in the United States under that contract on behalf of CMI AG.

11. Under the terms of the consulting agreement with CMI AG, Mr. Olanow was obligated to assign his rights in the subject matter disclosed and to the invention claimed in European Patent Application Serial No. 02024475.2 to CMI AG.

12. On October 17, 2001, CMI AG filed for insolvency, and Phytix AG acquired all of the intangible and most of the tangible assets of CMI AG in January 2002.

13. On December 19, 2003, Phytix AG transferred shares in Phytix AG to Mr. Olanow in exchange for Mr. Olanow's assignment of his rights to the subject matter disclosed and to the invention claimed in European Patent Application Serial No. 02024475.2 to CMI AG and International Patent Application No. PCT/EP2003/010975.

14. None of the inventors was nor currently is employed by Phytix AG, the Assignee of the above-captioned patent application, which is a German company having a principal place of business in München, Germany.

15. At the time of the filing of the European and international patent applications, neither CMI AG nor Phytix AG, nor their European patent attorneys, realized that the foreign filing license requirements under U.S. patent laws were applicable to the subject matter disclosed and to the invention claimed in the non-U.S. applications.

16. The subject matter in question was not under a secrecy order at the time Vossius & Partner filed the European or the international patent application, and the subject matter in question is not currently under a secrecy order.

17. When Mr. Arpin advised me that a foreign filing license might have been required in the above-captioned patent application prior to filing a patent application outside of the United States because of Mr. Olanow's activities within the United States; I began to investigate (1) the nature of Mr. Olanow's inventive contributions to the subject matter disclosed and to the invention claimed in European Patent Application Serial No. 02024475.2 and (2) the ownership of Mr. Olanow's rights in the subject matter disclosed and to the

invention claimed in European Patent Application Serial No. 02024475.2 and its counterparts.

18. The European patent application was filed in the EPO on October 30, 2002, and the international patent application was filed on October 2, 2003, without first obtaining a foreign filing license, through error and without deceptive intent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application for any patent issuing thereon.

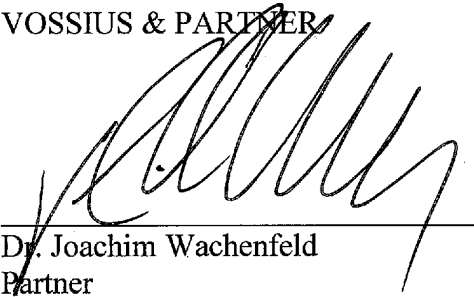
Respectfully submitted,

VOSSIUS & PARTNER

Dated: October 11, 2006

Vossius & Partner
Siebertstraße 4
81675 München, Germany
Tel: 011-49-(0)89-4 13 04-0
Fax: 011-49-(0)89-4 13 04-111

By:


Dr. Joachim Wachenfeld
Partner

JBA/TJC/dw